

Message

From: Moran, Robin [moran.robin@epa.gov]
Sent: 11/3/2021 12:05:12 PM
To: Lieske, Christopher [lieske.christopher@epa.gov]
Subject: FW: LD NTR and Endangered Species Act

Chris, do you mind doing a quick database search to see if anyone else commented on Endangered Species?

From: Charmley, William <charmley.william@epa.gov>
Sent: Wednesday, November 03, 2021 8:03 AM
To: Moran, Robin <moran.robin@epa.gov>; Sargeant, Kathryn <sargeant.kathryn@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Kataoka, Mark <Kataoka.Mark@epa.gov>; Buchsbaum, Seth <buchsbaum.seth@epa.gov>
Subject: RE: LD NTR and Endangered Species Act

Dear all –

Is CBD the only stakeholder who commented on this – or were their others? I just read the CBD comments and copied them below.

V. This rulemaking would benefit from consultation under the Endangered Species Act

Finally, EPA’s rule would benefit from consultation under Section 7 of the Endangered Species Act. For every discretionary action, Section 7(a)(2) of the Endangered Species Act (“ESA”) requires each federal agency, in consultation with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service (collectively, the “Services”), to “insure that any action authorized, funded, or carried out by the agency is not likely to jeopardize the continued existence of any threatened or endangered species, or result in the destruction or adverse modification of the critical habitat of such species” using the best scientific data available.⁶¹ Undergoing consultation under the ESA assists EPA in making discretionary decisions—such as regarding stringency levels and uses of credits and other flexibilities—that mitigate harmful effects on species. Consultation is also consistent with President Biden’s “whole of government” approach to addressing the climate crisis, as well as Executive Order 13990, which states that all federal agencies “must be guided by the best science and be protected by processes that ensure the integrity of Federal decision-making.” For these reasons, we encourage EPA to consult with the Services in rulemakings such as this and future ones that have vast potential effects on biodiversity.

From: Moran, Robin <moran.robin@epa.gov>
Sent: Wednesday, November 03, 2021 7:47 AM
To: Sargeant, Kathryn <sargeant.kathryn@epa.gov>
Cc: Charmley, William <charmley.william@epa.gov>; Orlin, David <Orlin.David@epa.gov>
Subject: RE: LD NTR and Endangered Species Act

Thanks Kathryn and David, I do think we should mention this to Sarah today. Mark had flagged for us at Bill's weekly on Monday, but at that point it was more of an exploration stage.

David, is that an update that you could give Sarah, since OGC has been taking the lead on the consultation question?

From: Sargeant, Kathryn <sargeant.kathryn@epa.gov>

Sent: Tuesday, November 02, 2021 5:08 PM

To: Moran, Robin <moran.robin@epa.gov>

Cc: Charmley, William <charmley.william@epa.gov>; Orlin, David <Orlin.David@epa.gov>

Subject: LD NTR and Endangered Species Act

Importance: High

David and I were just talking, and he mentioned that he became aware today that the Endangered Species Act issues have been mentioned (within OGC) to Melissa.

So, he's wondering if we should make Sarah aware that it's an issue, just so she's not surprised if it gets mentioned somewhere.

I'm passing that on, especially in case you think it's something that should be added to the agenda for Sarah's weekly tomorrow.

Kathryn Sargeant (*pronouns: she/her/hers*)
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